

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

August 26, 2008

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No. 07-50510  
Summary Calendar

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Charles R. Fulbruge III  
Clerk

ANTHONY A. WHITEHURST

Plaintiff-Appellant

v.

CHARLEY VALDEZ, Texas Department of Criminal Justice; WILLIE  
VELASQUEZ, Texas Department of Criminal Justice; TROY FOX, Texas  
Department of Criminal Justice; OTHERS AS OF YET UNKNOWN

Defendants-Appellees

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:06-CV-535

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Before JONES, Chief Judge, and STEWART and OWEN, Circuit Judges.

PER CURIAM:\*

Appellant sued officials of the Texas Department of Criminal Justice for failing to properly calculate his time-served in various forms of State custody, leading to (a) his having remained in Texas prison longer than necessary and (b) the Federal Bureau of Prisons' miscalculation of his subsequent federal release date. The district court held alternatively that Whitehurst's complaint

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

was time barred under the Texas limitations period applicable in a § 1983 suit, or that the individual defendants were entitled to immunity because they were not responsible for the miscalculations that harmed Whitehurst. The latter proposition is incontestable. The former proposition is supported at Rec II:303 where a letter Whitehurst wrote in 2003 acknowledged that he knew as early as 1997 that the State had failed to credit the time served. We need not reach any potential Heck v. Humphrey, 512 U.S. 477 (1994) bar to this suit, and Whitehurst's other contentions lack merit. We find no reversible error in the court's opinions and AFFIRM the judgment of dismissal.